

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

THEODOR A. PERRONE, #K3983

PETITIONER

VERSUS

CIVIL ACTION NO. 1:08CV71HSO-JMR

LAWRENCE KELLY

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause comes before the Court on the Report and Recommendation [10] of Chief United States Magistrate Judge John M. Roper entered in this cause on August 20, 2008. The record reveals that Petitioner filed a Response to Respondent's Motion, but has not filed objections to the Magistrate's Report and Recommendation. Based on the record before this Court, the undersigned finds that the Magistrate Judge properly recommended that Respondent's Motion to Dismiss be granted pursuant to § 2244(d)(1) of title 28 of the United States Code, as well as the laws of Mississippi. After referral of hearing by this Court, no objections having been filed, and the Court, having fully reviewed the same as well as the record in this matter, and being duly advised in the premises, finds that the Magistrate's Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [10] of Chief United States Magistrate Judge John M. Roper entered on August 20, 2008, be, and the same hereby is, adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Respondent's Motion to Dismiss Pursuant to § 2244(d) as to Theodor A. Perrone filed April 29, 2008, should be and is hereby **GRANTED**. A separate judgment will be entered in accordance with this Order as required by Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 16th day of September, 2008.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE